

United States District Court
Northern District of California

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING,

Plaintiff,

v.

LAW SCHOOL ADMISSION COUNSEL,

Defendant.

Case No.: 12-cv-1830 (EMC) KAW

ORDER REGARDING THE PARTIES'
PROPOSED STIPULATED PROTECTIVE
ORDER RESPECTING CONFIDENTIAL
INFORMATION

The Court has reviewed the parties' stipulated protective order. *See* Dkt # 111-2. The Court will not enter the proposed protective order as written, because portions of the proposed order relating to filing documents under seal appear to be inconsistent with the local rules. For example, the proposed order implies that where neither party objects to a document being filed under seal, the document may be filed under seal. *Id.* at 13. But under Civil Local Rule 79-5(d) ("Filing a Document Designated Confidential by Another Party"), no document shall be filed under seal unless the party who has designated it confidential has demonstrated by affidavit that it is indeed sealable. The Court then decides whether the documents should, in fact, be sealed.

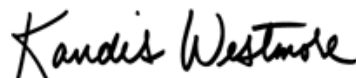
The failure of the other side to challenge the filing of the documents under seal (presumably after the fact) does not relieve the party seeking to file under seal from its burden of showing that the information is "privileged or protectable as a trade secret or otherwise entitled to protection under the law." *Id.* Nor does the absence of an opposition avoid the Court's determination on the sealability question. The proposed stipulation effectively circumvents the Court's review process and is, therefore, improper.

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1 The parties may file a revised stipulated protective order that is consistent with the local
2 rules.

3 IT IS SO ORDERED.

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5 Dated: March 15, 2013



KANDIS A. WESTMORE
UNITED STATES MAGISTRATE JUDGE